

## **2013 DRAFTING REQUEST**

### **Bill**

Received: **4/16/2013** Received By: **agary**  
Wanted: **As time permits** Same as LRB:  
For: **Bill Kramer (608) 266-8580** By/Representing: **Cameron Sholty**  
May Contact: Drafter: **agary**  
Subject: **Transportation - mot veh dealers** Addl. Drafters:  
**Transportation - motor vehicles** Extra Copies:  
**Transportation - other**

Submit via email: **YES**  
Requester's email: **Rep.Kramer@legis.wisconsin.gov**  
Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

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### **Pre Topic:**

No specific pre topic given

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### **Topic:**

Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

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### **Instructions:**

See attached; same as LRB-1915/P2

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### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 4/16/2013	jdyer 4/18/2013	phenry 4/18/2013	_____			
/P1	agary 4/29/2013	jdyer 4/29/2013	phenry 4/29/2013	_____	sbasford 4/18/2013		
/1				_____	mbarman	mbarman	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				<u>          </u>	4/29/2013	4/29/2013	

FE Sent For:

↳ Not  
Needed

<END>

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/P1	agary 4/29/2013	jdye 4/29/2013	phenry 4/29/2013	_____	sbasford 4/18/2013		
/1				_____	mbarman		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				<u>          </u>	4/29/2013		

FE Sent For:

**<END>**

# 2013 DRAFTING REQUEST

## Bill

Received: 4/16/2013 Received By: agary  
 Wanted: As time permits Same as LRB:  
 For: Bill Kramer (608) 266-8580 By/Representing: Cameron Sholty  
 May Contact: Drafter: agary  
 Subject: Transportation - mot veh dealers Addl. Drafters:  
 Transportation - motor vehicles Extra Copies:  
 Transportation - other

Submit via email: YES  
 Requester's email: Rep.Kramer@legis.wisconsin.gov  
 Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

## Pre Topic:

No specific pre topic given

## Topic:

Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

## Instructions:

See attached; same as LRB-1915/P2

## Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	agary 4/16/2013	jdye 4/18/2013	phenry 4/18/2013				
/P1		1/4/29 jld	4/29 ph		sbasford 4/18/2013		

FE Sent For:

<END>

**2013 DRAFTING REQUEST**

**Bill**

Received:	<b>4/16/2013</b>	Received By:	<b>agary</b>
Wanted:	<b>As time permits</b>	Same as LRB:	
For:	<b>Bill Kramer (608) 266-8580</b>	By/Representing:	<b>Cameron Sholty</b>
May Contact:		Drafter:	<b>agary</b>
Subject:	<b>Transportation - mot veh dealers Transportation - motor vehicles Transportation - other</b>	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**  
 Requester's email: **Rep.Kramer@legis.wisconsin.gov**  
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

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**Instructions:**

See attached; same as LRB-1915/P2

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 4/16/2013	<i>PI JLD</i>	<i>4/18 ph</i>	<i>ph</i>			

FE Sent For:

<END>

## Gary, Aaron

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**From:** David, Curt  
**Sent:** Wednesday, April 17, 2013 3:50 PM  
**To:** Gary, Aaron  
**Subject:** RE: Email from LRB Website  
**Attachments:** Proposed Lemon Law Changes (Apr 16 2013).docx

Gary,

Could you please redraft this LRB using this text?

Thank you.

Curt

---

**From:** Gary, Aaron  
**Sent:** Tuesday, April 16, 2013 9:32 AM  
**To:** David, Curt  
**Subject:** RE: Email from LRB Website

OK

---

**From:** David, Curt  
**Sent:** Tuesday, April 16, 2013 9:30 AM  
**To:** Gary, Aaron; Sholty, Cameron; Probst, Nick  
**Subject:** RE: Email from LRB Website

Gary,

Please hold that draft there are corrections in the works.

Thanks,  
Curt

---

**From:** Gary, Aaron  
**Sent:** Tuesday, April 16, 2013 9:15 AM  
**To:** Sholty, Cameron; Probst, Nick  
**Cc:** David, Curt  
**Subject:** RE: Email from LRB Website

Thanks. The new number is LRB-2179 and I'll have it out to you shortly. Do you want to start with a /P1 or an introducible /1? Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Sholty, Cameron  
**Sent:** Tuesday, April 16, 2013 9:05 AM

## Wisconsin Lemon Law Amendments

*Proposed Changes to LRB-1915/P1*

SECTION 1. ~~218.0171 (1) (am)~~ of the statutes is created to read:

~~218.0171 (1) (am) "Commercial motor vehicle" means a motor vehicle designed to transport passengers or property and having one or more of the following characteristics:~~

- ~~1. The vehicle is a single vehicle with a gross vehicle weight rating of 26,001 or more pounds or the vehicle's registered weight or actual gross weight is more than 26,000 pounds.~~
- ~~2. The vehicle is a combination vehicle with a gross combination weight rating, registered weight or actual gross weight of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating, registered weight or actual gross weight of more than 10,000 pounds.~~
- ~~3. The vehicle is designed to transport the driver and 15 or more passengers. If the vehicle is equipped with bench type seats intended to seat more than one person, the passenger-carrying capacity shall be determined under s. 340.01 (31) or, if the vehicle is a school bus, by dividing the total seating space measured in inches by 13.~~

[Note: Provision not needed as commercial motor vehicle exemption deleted]

Section 2. ~~218.0171 (1) (d)~~ of the statutes is amended to read:

~~218.0171 (1) (d) "Motor vehicle" means any motor driven vehicle required to be registered under ch. 341 or exempt from registration under s. 341.05 (2), including a demonstrator or executive vehicle not titled or titled by a manufacturer or a motor vehicle dealer, which a consumer purchases or accepts transfer of in this state. "Motor vehicle" does not mean a moped, semitrailer or trailer designed for use in combination with a truck or truck tractor, or commercial motor vehicle.~~

[Note: Provision not needed as commercial motor vehicle exemption deleted]

SECTION 3 1. ~~218.0171 (1) (g)~~ of the statutes is created to read:

~~218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that the vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following:~~

- ~~1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or any of the manufacturer's authorized motor vehicle dealers for the purpose of performing or attempting repairs to correct a nonconformity.~~



2. The vehicle is in the possession of the consumer and all the following apply:

a. The vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair to attempt to correct the same nonconformity.

b. The consumer has reported, in writing, the nonconformity to the manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle dealer and manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

**SECTION 4 2.** 218.0171 (2) (c) of the statutes is amended to read:

218.0171 (2) (c) To receive a comparable new motor vehicle or a refund due under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. When the consumer elects a comparable new vehicle, no later than 30 days after that offer, the manufacturer shall provide the consumer with the comparable new motor vehicle or refund. When the consumer elects a comparable new vehicle, no later than 120 days after that offer, the manufacturer shall provide the consumer with the comparable new motor vehicle. During or prior to this 30-day period, if the consumer has requested a refund, the consumer shall provide to the manufacturer all information timely requested and required by the manufacturer ~~necessary~~ and any written consent to allow the manufacturer to provide the refund. If the consumer fails, ~~either intentionally or unintentionally,~~ to provide any of this information by the end of this 30-day period, the consumer may not bring action under sub. (7). When the manufacturer provides the new motor vehicle or refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the consumer, provide the certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of the lien interest.

[Note: Manufacturers cannot meet the 30-day time period to provide a comparable new vehicle for various reasons. For example, commercial vehicles are custom built and "off the shelf" does not exist; imported car have building/shipping/delivery time constraints; and all vehicles face a daunting task of meeting consumers' expectations as to what is deemed comparable.

Adding "and any written consent" resolves the situation where a consumer provides the manufacturer with the name of the lender, but the lender will not disseminate information unless there is consent from the consumer.

The terms "intentional/unintentional" are deleted as unnecessary.

Adding the term "requested by the manufacturer" provide clarity for a consumer who would not be able to discern what would be deemed "necessary."

**SECTION 5** 3 218.0171 (2) (cm) 1. and 2. of the statues are amended to read:

218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle having the nonconformity to return that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the consumer. During or prior to this 30-day period, if the consumer has requested a refund, the consumer shall provide to the manufacturer all information timely requested and required by the manufacturer necessary and any written consent to allow the manufacture to provide the refund. If the consumer fails, either intentionally or unintentionally, to provide any of this information by the end of this 30-day period, the consumer may not bring action under sub. (7). ~~the manufacturer provides the refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer.~~ When

2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the motor vehicle lessor. During or prior to this 30-day period, if the motor vehicle lessor has requested a refund, the motor vehicle lessor shall provide to the manufacturer all information timely requested and required by the manufacturer necessary and any written consent to allow the manufacturer to provide the refund. When the manufacturer provides the refund, the motor vehicle lessor shall provide to the manufacturer the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the motor vehicle lessor, provide the certificate to the manufacturer or to the motor vehicle lessor. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the consumer, provide the certificate of title to the manufacturer, upon satisfaction of the lien interest.

[Note: The last sentence was added to avoid the bank sending the title back to the consumer after the manufacturer has paid off the underlying loan. For other changes, see above]

**SECTION 4.** 218.0171 (6) of the statutes is amended to read:

218.0171 (6) ~~(6) Any waiver by a consumer of rights under this section is void.~~

Notwithstanding the requirements of sub (b), if the consumer agrees to and enters into a negotiated written settlement with the manufacturer regarding the reported nonconformities, the manufacturer shall no longer be subject to any requirements of Section 218.0171.

**SECTION 6 5.** 218.0171 (7) of the statutes is amended to read:

218.0171 (7) ~~In~~ Subject to subs. (2) (c) and (cm) 1. and (3), in addition to pursuing any other remedy, a consumer may bring an action to recover for any damages caused by a violation of this section if the action is commenced within 24 18 months after first delivery of the motor vehicle to a consumer. The court or finder of fact shall may award a consumer who prevails in such an action ~~twice~~ the amount of any pecuniary loss, together with costs, disbursements and reasonable attorney fees, and any equitable relief the court determines appropriate.

[Note: "Finder of fact" was added to reflect that the awarding of damages may also be done by a jury. When this section was initially enacted, it was contemplated that only a court, after a finding of liability by a jury, could assess double damages. Since the proposed amendment eliminates the right to double damages, it likewise needed to be amended to reflect that either the court or the jury could award pecuniary damages.

**SECTION 7.** Initial Applicability.

(1) This act first applies with respect to motor vehicles for which the express warranty commences on the effective date of this subsection.

**SECTION 8.** Effective Date.

(1) This act takes effect on the first day of the 3rd month beginning after publication.

## Wisconsin Lemon Law Amendments

**SECTION 1.** 218.0171 (1) (g) of the statutes is **created** to read:

218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that the vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following:

1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or any of the manufacturer's authorized motor vehicle dealers for the purpose of performing or attempting repairs to correct a nonconformity.

2. The vehicle is in the possession of the consumer and all the following apply:

a. The vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair to attempt to correct the same nonconformity.

b. The consumer has reported, in writing, the nonconformity to the manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle dealer and manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

**SECTION 2.** 218.0171 (2) (c) of the statutes is **amended** to read:

218.0171 (2) (c) 1. To receive a comparable new motor vehicle or a refund due under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer.

2. When the consumer elects a refund, no later than 30 days after that offer provided under sub. (2) (c) 1., the manufacturer shall provide the consumer with the comparable new motor vehicle or refund. During or prior to this 30-day period, the consumer shall provide to the manufacturer all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring action under sub. (7).

3. When the consumer elects a comparable new vehicle, no later than 120 days after that offer provided under sub. (2) (c) 1., the manufacturer shall provide the consumer with the comparable new motor vehicle. The manufacturer shall exercise due diligence in locating and

providing a comparable vehicle within the 120-day period. If no comparable vehicle exists or is otherwise unavailable for delivery within the 120-day period, the manufacturer shall provide a refund no later than 120 days after that offer provided under sub. (2) (c) 1.

4. When the manufacturer provides the new motor vehicle or refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer and provide the manufacturer with the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the consumer, provide the certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of the lien interest.

**SECTION 3.** 218.0171 (2) (cm) 1. and 2. of the statutes are **amended** to read:

218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle having the nonconformity to return that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the consumer. During or prior to this 30-day period, the consumer shall provide to the manufacturer all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring action under sub. (7). When the manufacturer provides the refund, the consumer shall return the motor vehicle having the nonconformity to the manufacturer.

2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. No later than 30 days after that offer, the manufacturer shall provide the refund to the motor vehicle lessor. During or prior to this 30-day period, the consumer shall provide to the manufacturer all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. When the manufacturer provides the refund, the motor vehicle lessor shall provide to the manufacturer the certificate of title and all endorsements necessary to transfer title to the manufacturer. If another person is in possession of the certificate of title, as shown by the records of the department of transportation, that person shall, upon request of the motor vehicle lessor, provide the certificate to the manufacturer or to the motor vehicle lessor.

**SECTION 4.** 218.0171 (6) of the statutes is **amended** to read:

218.0171 (6) ~~Any waiver by a consumer of rights under this section is void.~~  
Notwithstanding the requirements of sub (b), if the consumer agrees to and enters into a negotiated written settlement with the manufacturer regarding the reported nonconformities, the manufacturer shall no longer be subject to any requirements of Section 218.0171.

**SECTION 5.** 218.0171 (7) of the statutes is **amended** to read:

218.0171 (7) ~~In~~ Subject to subs. (2) (c) 2. and (cm) 1. and (3), in addition to pursuing any other remedy, a consumer may bring an action to recover for any damages caused by a violation of this section if the action is commenced within 18 months after first delivery of the motor vehicle to a consumer. The court or finder of fact shall ~~may~~ award a consumer who prevails in such an action ~~twice~~ the amount of any pecuniary loss, together with costs, disbursements and reasonable attorney fees, and any equitable relief the court determines appropriate

**SECTION 6.** Initial Applicability.

(1) This act first applies with respect to motor vehicles for which the express warranty commences on the effective date of this subsection.

**SECTION 7.** Effective Date.

(1) This act takes effect on the first day of the 3rd month beginning after publication.



State of Wisconsin  
2013 - 2014 LEGISLATURE

in  
4/18



LRB-1915/P2 - 2179/P1

ARG:jld:jf

wanted 4/19  
end of day

Keep R M N I C

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

✓

Regen

- 1 AN ACT *to amend* 218.0171 (2) (c), 218.0171 (2) (cm) 1. and 2. and 218.0171 (7);  
2 *to repeal and recreate* 218.0171 (6); and *to create* 218.0171 (1) (g) of the  
3 statutes; **relating to:** the law governing repair, replacement, and refund under  
4 a motor vehicle warranty. ✓

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***Analysis by the Legislative Reference Bureau***

Currently the law governing repair, replacement, and refund under a motor vehicle warranty, commonly referred to as the "lemon law," provides remedies for a person who purchases, receives, or leases (consumer) a motor vehicle that is under an express warranty and that has a nonconformity. A "nonconformity" is defined as a condition or defect that substantially impairs the use, value, or safety of the motor vehicle and that is covered by an express warranty, but does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the consumer.

Under current law, if a consumer reports a nonconformity to the manufacturer or manufacturer's agent such as the importer or distributor (manufacturer), the lessor of the motor vehicle (lessor) if the consumer is leasing the vehicle, or any of the manufacturer's authorized motor vehicle dealers (authorized dealers) and if the consumer makes the motor vehicle available for repair before the warranty expires or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the consumer is entitled to have the nonconformity repaired. If, after a reasonable attempt to repair, the nonconformity is not repaired, the manufacturer must provide the consumer with a comparable new motor vehicle or a refund, at the

consumer's option. "Reasonable attempt to repair" is defined as any of the following occurring within the warranty period or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner: 1) the same nonconformity is subject to repair by the manufacturer, lessor, or authorized dealer at least four times and the nonconformity continues; or 2) the motor vehicle is out of service for an aggregate of at least 30 days because of nonconformities. To receive a comparable new motor vehicle or a refund, the consumer must offer to transfer title of the vehicle with the nonconformity to the manufacturer and, within 30 days after this offer, the manufacturer must provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer must return the vehicle with the nonconformity to the manufacturer along with necessary vehicle title documents. If another person is in possession of the vehicle's certificate of title, that person must provide the certificate to the manufacturer or to the consumer. In addition to the new replacement vehicle or refund, the consumer may bring a civil action to recover damages caused by a lemon law violation. If the consumer prevails, the court must award the consumer twice the amount of any pecuniary loss, along with costs and reasonable attorney fees. Any waiver by a consumer of rights under the lemon law is void.

This bill creates a definition of "out of service," which affects whether a "reasonable attempt to repair" has been made under item 2), above. Under the bill, "out of service" means that a motor vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following: 1) the vehicle is in the possession of the manufacturer, lessor, or authorized dealer for the purpose of performing or attempting repairs to correct a nonconformity; or 2) the vehicle is in the consumer's possession and all of the following apply: a) the vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair attempt to correct the same nonconformity; and b) the consumer has reported, in writing, the nonconformity to the manufacturer, lessor, or authorized dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

The bill extends the time in which a manufacturer must provide a comparable new motor vehicle to a consumer who elects to receive a comparable new motor vehicle, from 30 days to 120 days after the consumer offers to transfer title of the vehicle with the nonconformity to the manufacturer. The bill also requires a consumer requesting a refund to provide to the manufacturer all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. The consumer must provide this information during or prior to the 30-day period that commences when the consumer offers to transfer title to the manufacturer of the vehicle with the nonconformity. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring a civil action to recover damages caused by a lemon law violation.

The bill also imposes additional limitations on civil actions brought to recover damages caused by lemon law violations. Under the bill, any action must be commenced within 18 months after first delivery of the motor vehicle to a consumer.

1/10/14  
ANAL

11



The bill also makes an award for pecuniary loss, costs, and attorney fees to a prevailing consumer in such an action discretionary with the court or jury rather than mandatory. The bill further eliminates the provision requiring the award of twice the amount of a prevailing consumer's pecuniary loss.

This bill repeals the provision of the lemon law making any waiver by a consumer of rights under the lemon law void. Instead, the bill specifies that, if a consumer enters into a negotiated written settlement with the manufacturer regarding a vehicle nonconformity, the manufacturer is no longer subject to any requirement under the lemon law with respect to that vehicle.

Also under this bill, if a consumer returns a vehicle with a nonconformity to the manufacturer and another person is in possession of the vehicle's certificate of title, that person must provide the certificate of title to the manufacturer, not the consumer, upon satisfaction of that person's security interest if any, in the vehicle. ✓

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           SECTION 1. 218.0171 (1) (g) of the statutes is created to read:

2           218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that  
3           the vehicle is unable to be used by the consumer for the vehicle's intended purpose  
4           as a result of any of the following:

5           1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or  
6           any of the manufacturer's authorized motor vehicle dealers for the purpose of  
7           performing or attempting repairs to correct a nonconformity.

8           2. The vehicle is in the possession of the consumer and all of the following apply:

9           a. The vehicle has a nonconformity that substantially affects the use or safety  
10          of the vehicle and that has been subject to a previous repair attempt to correct the  
11          same nonconformity.

12          b. The consumer has reported, in writing, the nonconformity to the  
13          manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle  
14          dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for  
15          the purpose of performing or attempting subsequent repairs.

insert 4-1 ✓  
1 SECTION 2. 218.0171 (2) (c) of the statutes is amended to read:

2 218.0171 (2) (c) To receive a comparable new motor vehicle or a refund due  
3 under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer  
4 to the manufacturer of the motor vehicle having the nonconformity to transfer title  
5 of that motor vehicle to that manufacturer. No later than 120 days after that offer,  
6 if the consumer elects a comparable new motor vehicle, the manufacturer shall  
7 provide the consumer with the comparable new motor vehicle. No later than 30 days  
8 after that offer, if the consumer elects a refund, the manufacturer shall provide the  
9 consumer with the comparable new motor vehicle or refund. During or prior to this  
10 30-day period, if the consumer has requested a refund, the consumer shall provide  
11 to the manufacturer all information timely requested and required by the  
12 manufacturer and any written consent to allow the manufacturer to provide the  
13 refund. If the consumer fails, to provide any of this information by the end of this  
14 30-day period, the consumer may not bring an action under sub. (7). When the  
15 manufacturer provides the new motor vehicle or refund, the consumer shall return  
16 the motor vehicle having the nonconformity to the manufacturer and provide the  
17 manufacturer with the certificate of title and all endorsements necessary to transfer  
18 title to the manufacturer. If another person is in possession of the certificate of title,  
19 as shown by the records of the department of transportation, that person shall, upon  
20 request of the consumer, provide the certificate of title to the manufacturer or to the  
21 consumer upon satisfaction of that person's security interest, if any, in the motor  
22 vehicle.

23 SECTION 3. 218.0171 (2) (cm) 1. and 2. of the statutes are amended to read:

24 218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer  
25 described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle

1 having the nonconformity to return that motor vehicle to that manufacturer. No  
2 later than 30 days after that offer, the manufacturer shall provide the refund to the  
3 consumer. During or prior to this 30-day period, if the consumer has requested a  
4 refund, the consumer shall provide to the manufacturer all information timely  
5 requested and required by the manufacturer and any written consent to allow the  
6 manufacturer to provide the refund. If the consumer fails to provide any of this  
7 information by the end of this 30-day period, the consumer may not bring an action  
8 under sub. (7). When the manufacturer provides the refund, the consumer shall  
9 return the motor vehicle having the nonconformity to the manufacturer.

10 2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to  
11 the manufacturer of the motor vehicle having the nonconformity to transfer title of  
12 that motor vehicle to that manufacturer. No later than 30 days after that offer, the  
13 manufacturer shall provide the refund to the motor vehicle lessor. During or prior  
14 to this 30-day period, if the motor vehicle lessor has requested a refund, the motor  
15 vehicle lessor shall provide to the manufacturer all information timely requested and  
16 required by the manufacturer and any written consent to allow the manufacturer to  
17 provide the refund. When the manufacturer provides the refund, the motor vehicle  
18 lessor shall provide to the manufacturer the certificate of title and all endorsements  
19 necessary to transfer title to the manufacturer. If another person is in possession of  
20 the certificate of title, as shown by the records of the department of transportation,  
21 that person shall, upon request of the motor vehicle lessor, provide the certificate of  
22 title to the manufacturer ~~or to the motor vehicle lessor~~ upon satisfaction of that  
23 person's security interest, if any, in the motor vehicle.

24 SECTION 4. 218.0171 (6) of the statutes is repealed and recreated to read:

218.0171 (6) Notwithstanding sub. (2) (b), if the consumer enters into a negotiated written settlement with the manufacturer regarding any motor vehicle nonconformity, the manufacturer shall no longer be subject to any requirement of this section with respect to that motor vehicle.

**SECTION 5.** 218.0171 (7) of the statutes is amended to read:

218.0171 (7) ~~In~~ Subject to subs. (2) (c) <sup>✓</sup> and (cm) 1. and (3), <sup>2.</sup> in addition to pursuing any other remedy, a consumer may bring an action to recover for any damages caused by a violation of this section if the action is commenced within 18 months after first delivery of the motor vehicle to a consumer. The court ~~shall~~ or jury may award a consumer who prevails in such an action ~~twice~~ the amount of any pecuniary loss, together with costs, disbursements and reasonable attorney fees, and any equitable relief the court determines appropriate.

## SECTION 6. Initial applicability.

(1) This act first applies with respect to motor vehicles for which the express warranty commences on the effective date of this subsection.

**SECTION 7. Effective date.**

(1) This act takes effect on the first day of the 3rd month beginning after publication.

**(END)**

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2179/P1ins  
ARG:.....

**INSERT ANAL:**

(no 4) If no comparable new motor vehicle is available for delivery within this 120-day period, the manufacturer must provide a refund in lieu of providing the comparable new motor vehicle. The manufacturer must exercise due diligence in locating and providing a comparable new motor vehicle during this 120-day period.

**INSERT 4-1:**

**SECTION 1.** 218.0171 (2) (b) 2. a. of the statutes is amended to read:

218.0171 (2) (b) 2. a. Accept return of the motor vehicle and, subject to par. (c)

3. replace the motor vehicle with a comparable new motor vehicle and refund any collateral costs.

History: 1983 a. 48; 1985 a. 205 ss. 1m to 6, 8; 1987 a. 105, 169, 323, 403; 1989 a. 31; 1999 a. 31 s. 287; Stats. 1999 s. 218.0171; 2001 a. 45; 2009 a. 2; 2011 a. 32.

\*\*\*\*NOTE: Given the new changes in the latest proposed provisions, this new treatment needs to be added.

**SECTION 2.** 218.0171 (2) (c) of the statutes is renumbered 218.0171 (2) (c) 1. and amended to read:

218.0171 (2) (c) 1. To receive a comparable new motor vehicle or a refund due under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer to the manufacturer of the motor vehicle having the nonconformity to transfer title of that motor vehicle to that manufacturer. ~~No~~

2. If the consumer elects a refund, no later than 30 days after that the offer under subd. 1., the manufacturer shall provide the consumer with the comparable new motor vehicle or refund. During or prior to this 30-day period, the consumer shall provide to the manufacturer all information timely requested and required by

1 the manufacturer and any written consent to allow the manufacturer to provide the  
2 refund. ✓ If the consumer fails to provide any of this information by the end of this  
3 30-day period, ✓ the consumer may not bring an action under sub. (7). ✓

4 4. When the manufacturer provides the new motor vehicle or refund, the  
5 consumer shall return the motor vehicle having the nonconformity to the  
6 manufacturer and provide the manufacturer with the certificate of title and all  
7 endorsements necessary to transfer title to the manufacturer. If another person is  
8 in possession of the certificate of title, as shown by the records of the department of  
9 transportation, that person shall, upon request of the consumer, provide the  
10 certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of any  
11 security interest in the motor vehicle. ✓

\*\*\*\*NOTE: In this provision, I modified the proposed text by changing "when" to "if."  
Under our drafting protocol, we use "if" and not "when" if an event might not occur. I also  
changed "lien interest" to "security interest" because that is the proper statutory term.  
See, e.g., ss. 342.19 and 342.22, as well as s. 218.0171 (2) (b) 2. b. ✓

12 **SECTION 3.** 218.0171 (2) (c) 3. ✓ of the statutes is created to read:

13 218.0171 (2) (c) 3. Except as provided in this subdivision, ✓ if the consumer elects  
14 a comparable new motor vehicle, no later than 120 ✓ days after the offer under subd.  
15 1., ✓ the manufacturer shall provide the consumer with the comparable new motor  
16 vehicle. The manufacturer shall exercise due diligence in locating and providing a  
17 comparable new motor vehicle within this 120 ✓ day period. If no comparable new  
18 motor vehicles exists or if a comparable new motor vehicle is otherwise unavailable  
19 for delivery within this 120-day period, ✓ the manufacturer shall provide a refund in  
20 lieu of providing a comparable new motor vehicle and shall provide this refund no  
21 later than 120 days after the offer under subd. 1. ✓

\*\*\*\*NOTE: I made some changes to the proposed text for purposes of technical  
accuracy and clarity.

(end ins)

1

2

**INSERT 5-23:**

\*\*\*\*NOTE: This provision (subd. 2.)<sup>✓</sup> incorporates changes made in the latest proposed language. With these changes, if a motor vehicle lessor requests a refund, the consumer (lessee), not the lessor, is required to provide information and consent to the manufacturer. In addition, the latest proposed language eliminates previous changes at the end of subd. 2.<sup>✓</sup>

3

4

**INSERT 6-4:**

\*\*\*\*NOTE: Several changes from the proposed language are made in this provision. First, I have attempted to correct the incorrect cross-reference.<sup>✓</sup> Second, I have revised language to conform to LRB drafting style. Finally, I have tried to clarify or refine the proposed language. For example, the language "agrees to" is superfluous because the settlement itself connotes the agreement. Also, the use of the plural "nonconformities" is inaccurate because the provision applies if there is only one nonconformity.<sup>✓</sup> I also believe it is necessary to clarify that release of the manufacturer from the lemon law applies only with respect to the dispute at issue, not with respect to all other vehicles as well.

5

6

**INSERT 6-12:**

\*\*\*\*NOTE: The finder of fact may be the court or a jury.<sup>✓</sup> In referring to both, it is customary to refer to the "court or jury," not the "court or finder of fact" because of the redundancy of the latter. If you prefer, I can substitute "finder of fact" for "court or jury."<sup>✓</sup>

7

**Gary, Aaron**

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**From:** Gary, Aaron  
**Sent:** Monday, April 29, 2013 1:59 PM  
**To:** Oling, Lane; Fiocchi, Tim  
**Cc:** David, Curt  
**Subject:** RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

OK. I will also redraft LRB-2179 for Rep. Kramer so it is identical to LRB-2247/1 for Sen. Petrowski.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)  
608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** Oling, Lane  
**Sent:** Monday, April 29, 2013 1:56 PM  
**To:** Gary, Aaron; Fiocchi, Tim  
**Cc:** David, Curt  
**Subject:** RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Aaron,

Yes, please prepare a /1 on LRB-2247.

Thank you,

Lane Oling  
Office of Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502

---

**From:** Gary, Aaron  
**Sent:** Monday, April 29, 2013 1:54 PM  
**To:** Fiocchi, Tim; Oling, Lane  
**Cc:** David, Curt  
**Subject:** RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Tim and Lane,

Are you ready for a /1 on LRB-2247? This is your bill.

Aaron

Aaron R. Gary  
*Attorney, Legislative Reference Bureau*  
608.261.6926 (voice)



608.264.6948 (fax)  
[aaron.gary@legis.state.wi.us](mailto:aaron.gary@legis.state.wi.us)

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**From:** David, Curt  
**Sent:** Monday, April 29, 2013 1:51 PM  
**To:** Gary, Aaron  
**Cc:** Oling, Lane; Fiocchi, Tim  
**Subject:** RE: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Gary,

Could you prepare LRB-2247/P3 for introduction as soon as possible?

We would like to have a senate companion as well. I will let Sen. Petrowski's office confirm that with you.

Curt

---

**From:** Fiocchi, Tim  
**Sent:** Monday, April 29, 2013 9:39 AM  
**To:** David, Curt  
**Cc:** [Lane.Oling@legis.wisconsin.gov](mailto:Lane.Oling@legis.wisconsin.gov)  
**Subject:** FW: Draft review: LRB -2247/P3 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Good morning,

Please take a look at the attached and let us know if there are issues.

Thanks,

Tim

Tim Fiocchi  
Chief of Staff, Senator Jerry Petrowski  
29th Senate District  
(608) 266-2502



LPS - FROM 2013  
LRB-2247/13 TODAY

State of Wisconsin  
2013 - 2014 LEGISLATURE

2013 BILL

in 4/29



2179/1

RMNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note: redraft is based  
on a different draft #

✓  
Regen

PWF✓

- 1 AN ACT *to renumber and amend* 218.0171 (2) (c); *to amend* 218.0171 (2) (b)
- 2 2. a., 218.0171 (2) (cm) 1. and 2. and 218.0171 (7); and *to create* 218.0171 (1)
- 3 (am), 218.0171 (1) (g), 218.0171 (2) (c) 3., 4. and 5., 218.0171 (2) (cm) 4., 218.0171
- 4 (6m), 218.0171 (8) and 227.01 (13) (yd) of the statutes; **relating to:** the law
- 5 governing repair, replacement, and refund under a motor vehicle warranty.

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#### ***Analysis by the Legislative Reference Bureau***

Currently the law governing repair, replacement, and refund under a motor vehicle warranty, commonly referred to as the "lemon law," provides remedies for a person who purchases, receives, or leases (consumer) a motor vehicle that is under an express warranty and that has a nonconformity. A "nonconformity" is defined as a condition or defect that substantially impairs the use, value, or safety of the motor vehicle and that is covered by an express warranty, but does not include a condition or defect that is the result of abuse, neglect, or unauthorized modification or alteration of the motor vehicle by the consumer.

Under current law, if a consumer reports a nonconformity to the manufacturer or manufacturer's agent such as the importer or distributor (manufacturer), the lessor of the motor vehicle (lessor) if the consumer is leasing the vehicle, or any of the manufacturer's authorized motor vehicle dealers (authorized dealers) and if the consumer makes the motor vehicle available for repair before the warranty expires or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner, the consumer is entitled to have the nonconformity repaired. If, after a

reasonable attempt to repair, the nonconformity is not repaired, the manufacturer must provide the consumer with a comparable new motor vehicle or a refund, at the consumer's option. "Reasonable attempt to repair" is defined as any of the following occurring within the warranty period or within one year after first delivery of the motor vehicle to a consumer, whichever is sooner: 1) the same nonconformity is subject to repair by the manufacturer, lessor, or authorized dealer at least four times and the nonconformity continues; or 2) the motor vehicle is out of service for an aggregate of at least 30 days because of nonconformities. To receive a comparable new motor vehicle or a refund, the consumer must offer to transfer title of the vehicle with the nonconformity to the manufacturer and, within 30 days after this offer, the manufacturer must provide the consumer with the comparable new motor vehicle or refund. When the manufacturer provides the new motor vehicle or refund, the consumer must return the vehicle with the nonconformity to the manufacturer along with necessary vehicle title documents. If another person is in possession of the vehicle's certificate of title, that person must provide the certificate to the manufacturer or to the consumer. In addition to the new replacement vehicle or refund, the consumer may bring a civil action to recover damages caused by a lemon law violation. If the consumer prevails, the court must award the consumer twice the amount of any pecuniary loss, along with costs and reasonable attorney fees.

This bill creates a definition of "out of service," which affects whether a "reasonable attempt to repair" has been made under item 2), above. Under the bill, "out of service" means that a motor vehicle is unable to be used by the consumer for the vehicle's intended purpose as a result of any of the following: 1) the vehicle is in the possession of the manufacturer, lessor, or authorized dealer for the purpose of performing or attempting repairs to correct a nonconformity; or 2) the vehicle is in the consumer's possession and all of the following apply: a) the vehicle has a nonconformity that substantially affects the use or safety of the vehicle and that has been subject to a previous repair attempt to correct the same nonconformity; and b) the consumer has reported, in writing, the nonconformity to the manufacturer, lessor, or authorized dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for the purpose of performing or attempting subsequent repairs.

Under the bill, if a consumer elects to receive a comparable new motor vehicle or a refund and offers to transfer title of the vehicle with the nonconformity to the manufacturer, the deadline for the manufacturer to provide the consumer with the comparable new motor vehicle or refund, discussed further below, is measured from the later of the election or the offer, except as discussed below. The bill also requires a consumer requesting a refund to provide to the manufacturer, in a form and manner prescribed by the Department of Transportation (DOT), all information timely requested and required by the manufacturer and any written consent to allow the manufacturer to provide the refund. The consumer must provide this information during or prior to the 30-day period that commences with the later of the consumer's election of the refund or the consumer's offer to transfer title to the manufacturer of the vehicle with the nonconformity. If the consumer fails to provide any of this information by the end of this 30-day period, the consumer may not bring a civil action to recover damages caused by a lemon law violation. Also, if a consumer

elects to receive a refund, the deadline for the manufacturer to provide the consumer with the refund can be no earlier than ten days after the manufacturer receives from the consumer the required information and consent in the form and manner prescribed by DOT.

The bill also extends the time in which a manufacturer must provide a comparable new motor vehicle to a consumer who elects to receive a comparable new motor vehicle, from 30 days to 45 days after the later of the election or offer. If no comparable new motor vehicle is available for delivery within this 45-day period, the manufacturer must provide a refund in lieu of providing the comparable new motor vehicle. The manufacturer must exercise due diligence in locating and providing a comparable new motor vehicle during this 45-day period. These changes also apply if the comparable new motor vehicle is a commercial motor vehicle, except that the applicable period is 120 days rather than 45 days.

The bill also imposes additional limitations on civil actions brought to recover damages caused by lemon law violations. Under the bill, any action must be commenced within 24 months after first delivery of the motor vehicle to a consumer. The bill also makes an award for pecuniary loss, costs, and attorney fees to a prevailing consumer in such an action discretionary with the court or jury rather than mandatory. The bill further eliminates the provision requiring the award of twice the amount of a prevailing consumer's pecuniary loss and instead allows an award of up to the amount of the prevailing consumer's pecuniary loss.

This bill specifies that, if a consumer enters into a negotiated written settlement with the manufacturer regarding a vehicle nonconformity, the manufacturer is no longer subject to any requirement under the lemon law with respect to that vehicle.

Also under this bill, if a consumer returns a vehicle with a nonconformity to the manufacturer and another person is in possession of the vehicle's certificate of title, that person must provide the certificate of title to the manufacturer, not the consumer, upon satisfaction of any security interest in the vehicle.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 218.0171 (1) (am) of the statutes is created to read:

2           218.0171 (1) (am) 1. Subject to subd. 2., "commercial motor vehicle" means a  
3           motor vehicle designed to transport passengers or property and having one or more  
4           of the following characteristics:

1           a. The vehicle is a single vehicle with a gross vehicle weight rating of 26,001  
2 or more pounds or the vehicle's registered weight or actual gross weight is more than  
3 26,000 pounds.

4           b. The vehicle is a combination vehicle with a gross combination weight rating,  
5 registered weight or actual gross weight of 26,001 or more pounds inclusive of a  
6 towed unit with a gross vehicle weight rating, registered weight or actual gross  
7 weight of more than 10,000 pounds.

8           c. The vehicle is designed to transport the driver and 15 or more passengers.  
9 If the vehicle is equipped with bench type seats intended to seat more than one  
10 person, the passenger-carrying capacity shall be determined under s. 340.01 (31) or,  
11 if the vehicle is a school bus, by dividing the total seating space measured in inches  
12 by 13.

13           2. "Commercial motor vehicle" does not include a motor home, as defined in s.  
14 340.01 (33m).

15           **SECTION 2.** 218.0171 (1) (g) of the statutes is created to read:

16           218.0171 (1) (g) "Out of service," with respect to a motor vehicle, means that  
17 the vehicle is unable to be used by the consumer for the vehicle's intended purpose  
18 as a result of any of the following:

19           1. The vehicle is in the possession of the manufacturer, motor vehicle lessor, or  
20 any of the manufacturer's authorized motor vehicle dealers for the purpose of  
21 performing or attempting repairs to correct a nonconformity.

22           2. The vehicle is in the possession of the consumer and all of the following apply:

23           a. The vehicle has a nonconformity that substantially affects the use or safety  
24 of the vehicle and that has been subject to a previous repair attempt to correct the  
25 same nonconformity.

1           b. The consumer has reported, in writing, the nonconformity to the  
2 manufacturer, motor vehicle lessor, or manufacturer's authorized motor vehicle  
3 dealer and the manufacturer, lessor, or dealer has refused to accept the vehicle for  
4 the purpose of performing or attempting subsequent repairs.

5           **SECTION 3.** 218.0171 (2) (b) 2. a. of the statutes is amended to read:

6           218.0171 (2) (b) 2. a. Accept return of the motor vehicle and, subject to par. (c)  
7 3. and 4., replace the motor vehicle with a comparable new motor vehicle and refund  
8 any collateral costs.

9           **SECTION 4.** 218.0171 (2) (c) of the statutes is renumbered 218.0171 (2) (c) 1. and  
10 amended to read:

11           218.0171 (2) (c) 1. To receive a comparable new motor vehicle or a refund due  
12 under par. (b) 1. or 2., a consumer described under sub. (1) (b) 1., 2. or 3. shall offer  
13 to the manufacturer of the motor vehicle having the nonconformity to transfer title  
14 of that motor vehicle to that manufacturer. No

15           2. Subject to subd. 5., if the consumer elects a refund, no later than 30 days after  
16 that the offer under subd. 1. or the election of the refund, whichever is later, the  
17 manufacturer shall provide the consumer with the comparable new motor vehicle or  
18 refund. During or prior to this 30-day period, the consumer shall provide to the  
19 manufacturer, in a form and manner prescribed by the department of transportation,  
20 all information timely requested and required by the manufacturer and any written  
21 consent to allow the manufacturer to provide the refund. If the consumer fails to  
22 provide any of this information by the end of this 30-day period, the consumer may  
23 not bring an action under sub. (7).

24           6. When the manufacturer provides the new motor vehicle or refund, the  
25 consumer shall return the motor vehicle having the nonconformity to the

1 manufacturer and provide the manufacturer with the certificate of title and all  
2 endorsements necessary to transfer title to the manufacturer. If another person is  
3 in possession of the certificate of title, as shown by the records of the department of  
4 transportation, that person shall, upon request of the consumer, provide the  
5 certificate of title to the manufacturer ~~or to the consumer~~ upon satisfaction of any  
6 security interest in the motor vehicle.

7 **SECTION 5.** 218.0171 (2) (c) 3., 4. and 5. of the statutes are created to read:

8 218.0171 (2) (c) 3. Except as provided in this subdivision, if the consumer elects  
9 a comparable new motor vehicle, no later than 45 days after the offer under subd. 1.  
10 or the election of the new motor vehicle, whichever is later, the manufacturer shall  
11 provide the consumer with the comparable new motor vehicle. The manufacturer  
12 shall exercise due diligence in locating and providing a comparable new motor  
13 vehicle within this 45-day period. If no comparable new motor vehicles exists or if  
14 a comparable new motor vehicle is otherwise unavailable for delivery within this  
15 45-day period, the manufacturer shall provide a refund in lieu of providing a  
16 comparable new motor vehicle and shall provide this refund no later than 45 days  
17 after the offer under subd. 1. or the election of the new motor vehicle, whichever is  
18 later. This subdivision does not apply with respect to commercial motor vehicles.

19 4. Except as provided in this subdivision, if the consumer elects a comparable  
20 new commercial motor vehicle, no later than 120 days after the offer under subd. 1.  
21 or the election of the new commercial motor vehicle, whichever is later, the  
22 manufacturer shall provide the consumer with the comparable new commercial  
23 motor vehicle. The manufacturer shall exercise due diligence in locating and  
24 providing a comparable new commercial motor vehicle within this 120-day period.  
25 If no comparable new commercial motor vehicles exists or if a comparable new

1 commercial motor vehicle is otherwise unavailable for delivery within this 120-day  
2 period, the manufacturer shall provide a refund in lieu of providing a comparable  
3 new commercial motor vehicle and shall provide this refund no later than 120 days  
4 after the offer under subd. 1. or the election of the new commercial motor vehicle,  
5 whichever is later.

6 5. A manufacturer is not required to provide a consumer with a refund under  
7 subd. 2. less than 10 days after the manufacturer receives from the consumer the  
8 information and consent required under subd. 2., in the form and manner specified  
9 in sub. (8).

10 **SECTION 6.** 218.0171 (2) (cm) 1. and 2. of the statutes are amended to read:

11 218.0171 (2) (cm) 1. To receive a refund due under par. (b) 3., a consumer  
12 described under sub. (1) (b) 4. shall offer to the manufacturer of the motor vehicle  
13 having the nonconformity to return that motor vehicle to that manufacturer. No  
14 Subject to subd. 4., no later than 30 days after that offer, the manufacturer shall  
15 provide the refund to the consumer. During or prior to this 30-day period, the  
16 consumer shall provide to the manufacturer, in a form and manner prescribed by the  
17 department of transportation, all information timely requested and required by the  
18 manufacturer and any written consent to allow the manufacturer to provide the  
19 refund. If the consumer fails to provide any of this information by the end of this  
20 30-day period, the consumer may not bring an action under sub. (7). When the  
21 manufacturer provides the refund, the consumer shall return the motor vehicle  
22 having the nonconformity to the manufacturer.

23 2. To receive a refund due under par. (b) 3., a motor vehicle lessor shall offer to  
24 the manufacturer of the motor vehicle having the nonconformity to transfer title of  
25 that motor vehicle to that manufacturer. No Subject to subd. 4., no later than 30 days



1 after that offer, the manufacturer shall provide the refund to the motor vehicle lessor.  
2 During or prior to this 30-day period, the consumer shall provide to the  
3 manufacturer, in a form and manner prescribed by the department of transportation,  
4 all information timely requested and required by the manufacturer and any written  
5 consent to allow the manufacturer to provide the refund. When the manufacturer  
6 provides the refund, the motor vehicle lessor shall provide to the manufacturer the  
7 certificate of title and all endorsements necessary to transfer title to the  
8 manufacturer. If another person is in possession of the certificate of title, as shown  
9 by the records of the department of transportation, that person shall, upon request  
10 of the motor vehicle lessor, provide the certificate to the manufacturer or to the motor  
11 vehicle lessor.

12 **SECTION 7.** 218.0171 (2) (cm) 4. of the statutes is created to read:

13 218.0171 (2) (cm) 4. A manufacturer is not required to provide a consumer with  
14 a refund under subd. 1. or a motor vehicle lessor a refund under subd. 2. less than  
15 10 days after the manufacturer receives from the consumer the information and  
16 consent required under subd. 1. or 2., in the form and manner specified in sub. (8).

17 **SECTION 8.** 218.0171 (6m) of the statutes is created to read:

18 218.0171 (6m) Notwithstanding subs. (2) (b) and (6), if the consumer enters  
19 into a negotiated written settlement with the manufacturer regarding any motor  
20 vehicle nonconformity, the manufacturer shall no longer be subject to any  
21 requirement of this section with respect to that motor vehicle.

22 **SECTION 9.** 218.0171 (7) of the statutes is amended to read:

23 218.0171 (7) ~~In~~ Subject to subs. (2) (c) 2. and (cm) 1. and (3), in addition to  
24 pursuing any other remedy, a consumer may bring an action to recover for any  
25 damages caused by a violation of this section if the action is commenced within 24

1 months after first delivery of the motor vehicle to a consumer. The court ~~shall or jury~~  
2 may award a consumer who prevails in such an action ~~twice~~ up to the amount of any  
3 pecuniary loss, together with costs, disbursements and reasonable attorney fees, and  
4 any equitable relief the court determines appropriate.

5 **SECTION 10.** 218.0171 (8) of the statutes is created to read:

6 218.0171 (8) The department of transportation shall prescribe a form and  
7 manner for consumers to provide information and consent to manufacturers for  
8 purposes of sub. (2) (c) 2. and (cm) 1. and 2.

9 **SECTION 11.** 227.01 (13) (yd) of the statutes is created to read:

10 227.01 (13) (yd) Relates to any form or manner of providing information and  
11 consent prescribed by the department of transportation under s. 218.0171 (8).

12 **SECTION 12. Initial applicability.**

13 (1) This act first applies with respect to motor vehicles for which the express  
14 warranty commences on the effective date of this subsection.

15 **SECTION 13. Effective date.**

16 (1) This act takes effect on the first day of the 3rd month beginning after  
17 publication.

18 (END)

**Barman, Mike**

---

**From:** Rep.Kramer  
**Sent:** Monday, April 29, 2013 2:48 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2179/1 Topic: Motor vehicle warranty law (lemon law) changes relating to damages, refund information, commercial motor vehicles, civil actions, and reasonable attempts to repair

Please Jacket LRB -2179/1 for the ASSEMBLY.